

**NORTH CAROLINA**



**PROPOSAL  
TO THE  
CITY OF ASHEVILLE  
FOR  
INSURANCE BROKER SERVICES  
RFP #298-Ins-Broker-Services**

**Due Date: April 21, 2016  
At 3:00 P.M. EST**

**REQUEST FOR PROPOSALS  
Insurance Broker Services  
RFP #298-Ins-Broker-Services**

**ISSUE DATE:** March 16, 2016

**ISSUING DEPARTMENT:** City of Asheville Risk Management  
*Mailing Address:*  
P.O Box 7148  
Asheville, NC 28801  
Or  
*Physical Address:*  
70 Court Plaza  
Asheville, NC 28802

**Proposals will be received until 3:00 P.M., EST on April 21, 2016 to provide Insurance Broker Services for the City of Asheville.**

Direct all inquiries concerning the Scope of Services and/or Proposal Submission Requirements to:

**Brad Stein, Risk Manager:** [bstein@ashevillenc.gov](mailto:bstein@ashevillenc.gov)

Proposals shall be mailed and/or hand delivered to the Issuing Department shown above, and the envelope shall bear the name and number of this Request for Proposals. It is the sole responsibility of the Proposer to ensure that their proposal reaches the City of Asheville Risk Management Division by the designated date and hour indicated above.

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RFP #298-Ins-Broker-Services**

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## INSTRUCTIONS TO PROPOSERS

1. In order for a proposal to be considered, it must be based on terms, conditions and specifications contained herein and must be a complete response to this Request for Proposals (RFP). Please submit **one (1) original and two (2) copies** of each proposal to the Issuing Department. Proposals must be signed by an authorized representative. Each proposal should be bound in a single volume with all relevant documentation. Pages should be numbered and sections tabbed appropriately. The City may elect to require oral presentations after receipt of the proposals.
2. **The RFP will be released March 16, 2016** on the following website:  
<http://www.ashevillenc.gov/Departments/Purchasing/RequestsforBidsProposals.aspx>

After the RFP issue date, all communications between the Risk Management Division and prospective Proposers shall be via email. All inquires, requests for interpretation, technical questions or clarification shall be directed to [bstein@ashevillenc.gov](mailto:bstein@ashevillenc.gov). All questions concerning this RFP shall reference the RFP number, section number and paragraph. Questions and responses affecting the scope of the services will be provided to all Proposers by issuance of an Addendum. **All inquiries shall be submitted no later than 3:00 P.M., EST on April 17, 2016. The City will issue any final Addendums to the RFP no later than close of business on April 19, 2016.**

**Proposals will be received until 3:00 P.M., EST on April 21, 2016. Proposals shall be duly marked and/or identified with Proposer Name, Address and RFP #298-Ins-Broker-Services.**

**Top ranked Proposers may be requested to make presentations.**

3. **MINORITY BUSINESS PROGRAM GUIDELINES:** The City of Asheville has adopted a Minority Business Plan to encourage participation by minority and women owned businesses in the award of contracts. Organizations submitting proposals are hereby notified that this bid is subject to the provisions of that Plan.

In contracting for services, the City asks that in providing your qualifications for this bid, that you indicate if you will need to subcontract any portion of the work where a subcontractor is necessary must be noted. It is expected that due diligence is accomplished to outreach to those minority and women companies providing the work you may need.

Questions regarding the Minority Business Plan may be directed to Brenda Mills, Economic Development Specialist, Community & Economic Development, City of Asheville, P.O. Box 7148, Asheville, NC 28802-7148, by phone at (828) 259-8050 or by email at [bmills@ashevillenc.gov](mailto:bmills@ashevillenc.gov).

Access to a list of HUB (or Historically Underutilized Businesses) through the VendorLink system for the State of North Carolina. Other certifications which indicate minority or woman owned status may be used on this bid as long as they can be confirmed. There are two links for locating certified minority firms:

- <https://www.ips.state.nc.us/Vendor/SearchVendor.aspx> (indicate HUB status for search) or
- [www.doa.state.nc.us/hub](http://www.doa.state.nc.us/hub) (link allows search for just HUB vendors)

It is the policy of the City to (1) provide minorities an equal opportunity to participate in all aspects of its contracting and procurement programs and (2) to prohibit any and all discrimination against persons or businesses in pursuit of these opportunities.

4. The City of Asheville is a drug-free workplace employer. The Asheville City Council has also adopted a policy requiring City construction and service contractors to provide a drug-free workplace in the performance of any City contract. This policy may be reviewed at: <http://www.ashevillenc.gov/Departments/Purchasing/DrugFreeWorkPolicy.aspx>

By submitting a request for proposal, a prospective primary vendor certifies that it and all sub-vendors will comply with the City of Asheville drug- free workplace requirement. A false certification or the failure to comply with the above drug-free workplace requirements during the performance of contract shall be grounds for suspension, termination, or debarment.

5. Proposers are asked to submit a vendor application and return it with bid response. Proposers may download the form from the City's website at the following link: <http://AshevilleNC.gov/Bids>. Select "Vendor Application" located at the bottom of the page. Directions for submittal are available on this page. Please include commodity codes on your application.
6. NC Certificate of Authority. All out of state vendors are required to have a NC Certificate of Authority. If you have a certificate please submit with your Proposal. If you do not have one you must apply once awarded the Contract. You may register with the State of NC at: [www.secretary.state.nc.us/Corporations/Forms.aspx?EntityId=2719996&Type=Nonprofit%20Corporation](http://www.secretary.state.nc.us/Corporations/Forms.aspx?EntityId=2719996&Type=Nonprofit%20Corporation) and submit a copy of the NC Certificate of Authority to Risk Management immediately after it is received.
7. The Successful Proposer (Proposer) agrees to keep and maintain for the duration of this Agreement including but not limited to commercial general liability, professional liability, workers' compensation and employer's liability with at least the minimum limits shown below. **Proposer shall provide evidence of insurance coverage consistent with this requirement prior to contract award.** The Proposer shall furnish the City with certificates of insurance for each type of insurance described herein, with the City listed as Certificate Holder and as an additional insured on the Proposer's general liability policy and provide a waiver of subrogation under said policy. In the event of bodily injury, property damage, or financial loss caused by Proposer's negligent acts or omissions in connection with Proposer's services performed under this Agreement, the Proposer's Liability insurance shall be primary with respect to any other insurance which may be available to the City, regardless of how the "Other Insurance" provisions may read. In the event of cancellation, substantial changes or nonrenewal, the Proposer and Proposer's insurance carrier shall give the City at least thirty (30) days prior written notice. No work shall be performed until the Proposer has furnished to the City the above referenced certificate of insurance, in a form suitable to the City.

Commercial General Liability:	\$1,000,000 per occurrence
Professional Liability:	\$1,000,000 per claim-made
Workers' Compensation:	Statutory
Employer's Liability:	\$100,000 each accident/total disease/employee disease

8. Successful Proposer (Proposer) shall indemnify, defend and hold harmless the City and its subsidiaries, divisions, officers, directors and employees from all liability, loss, costs, claims, damages, expenses, attorney fees, judgments and awards arising or claimed to have arisen, from any injury caused by, or allegedly caused by, either in whole or in part, any act or omission of the Proposer or any employee, agent or assign of the Proposer. This provision is not applicable to any claim arising out of or related to any active or primary negligence of or by City, its officers or employees.

Nothing herein shall be construed as a waiver on the part of the City to any defense of any claim, including, but not limited to the defense of governmental immunity.

9. City Policy, adopted by City Council Resolution No. 93-139, prohibits the City from entering into contracts with persons or firms who are delinquent in the payment of ad valorem taxes owed to the City of Asheville.
10. Should a Proposer find discrepancies in, or omissions from the documents, or should be in doubt as to their meaning, notify the City, and a written addendum shall be issued. The City will not be responsible for any oral instructions. Acknowledgment of any addendum received shall be noted on the proposal. In closing of a contract, any addendum issued shall become a part thereof.
11. The City reserves the right to reject any and all proposals, and to waive any informality in proposals unless otherwise specified by the Proposer.
12. The Proposer shall not represent itself to be an agent of the City.
13. There is no expressed or implied obligation for the City of Asheville to reimburse Proposer for any expenses incurred in preparing proposals in response to this request.
14. **Proposal packages should include the following:**
  - **Response to Qualifications and Submission Requirement Section**
  - **Cost Estimates: FY17, FY18, FY19, FY20, FY21**
  - **One (1) Original plus two (2) copies of the Proposal**

**Failure to submit these documents may provide grounds for Proposal rejection.**

## SCOPE OF WORK

- 1. PURPOSE AND OVERVIEW.** The City of Asheville (City) invites qualified independent insurance brokers with at least five (5) years of public entity insurance broker services experience in accordance with the specifications outlined in this Request for Proposal (RFP) to submit a proposal to provide broker services. The City requires an independent North Carolina licensed insurance broker/agent that is not affiliated with any insurance company, third party administrative agency, or provider network. The specific details shown herein shall be considered minimum unless otherwise shown. The Scope of Work, terms, and conditions included with this RFP shall govern in any resulting contract(s) unless approved otherwise in writing by the City. The Proposer consents to personal jurisdiction and venue in a state court of competent jurisdiction in Buncombe County, North Carolina.

The City provides citizens services via the following departments: Police, Fire, Public Works, Water Utility, Parks and Cultural Recreation, Development Services, Transit and Parking Services, Community and Economic Development, including the US Cellular Center and Thomas Wolfe Auditorium. The following departments provide internal services to support the departments listed above: Finance, Human Resources, Information Technology, General Services, and General Administration.

The City employs approximately 1100 full-time employees, owns a fleet of 750 vehicles, and insures approximately \$240,000,000 in Real, Personal and Inland Marine property. Currently, the City is effectively self-insured for general and auto liability up to \$500,000 per occurrence, \$600,000 per occurrence for workers' compensation, carries a \$25,000 property deductible, and \$10,000 deductible on equipment and vehicles valued over \$50,000 covered for Actual Cash Value.

- 2. RFP SCHEDULE AND CONTRACT PERIOD.** The City intends to continue the relationship with the selected insurance broker for a period of one (1) year with the option to renew an annual service contract each year, not to exceed a total of five (5) years commencing July 1, 2016. The City requests bids for a five (5) year period. Each year after negotiation has taken place, an annual contract documenting broker services terms will be executed. The City reserves the right to request alternative proposals at any time following the first year of the contract. Proposals should be prepared for the following years with the first year being the only binding year:

Issuance of RFP:	March 16, 2016
Questions due by:	April 17, 2016
Addenda posted by:	April 19, 2016
Proposals Due:	3:00 PM EST April 21, 2016
Selection / Negotiations:	By June 1, 2016
Contract Start Date and Completion Date:	July 1, 2016 – June 30, 2017
Subsequent Contract Start/Completion Dates: - City reserves option to renew four additional contract years	July 1, 2017 – June 30, 2018 July 1, 2018 – June 30, 2019 July 1, 2019 – June 30, 2020 July 1, 2020 – June 30, 2021

**4. QUALIFICATIONS OF PROPOSERS:** The City may make such reasonable investigations as deemed proper and necessary to determine the ability of the Proposer to perform the work and the Proposer shall furnish to the City all such information for this purpose as may be requested. The City further reserves the right to reject any proposal if the evidence submitted by, or investigation of, such Proposer indicates that the Proposer is not properly qualified to carry out the obligations of the contract and to complete the work contemplated herein.

**5. BROKER SERVICE REQUIREMENTS:**

Services in advising and coordinating with the City's Risk Manager may include, but are not limited to the following:

- Prepare annual marketing strategy reports identifying anticipated market conditions and proposing a marketing strategy for the City's major loss exposure areas prior to policy renewal.
- Assist in developing underwriting data and specifications for renewal negotiations.
- Assist in providing value and trends for property insurance.
- With the participation of the Risk Manager, obtain bids from the insurance industry and negotiate the best terms and coverage for the various exposure areas.
- Exhibit the knowledge of and willingness to work with alternative risk coverage providers.
- Evaluate the commitment and financial stability of the insurance companies or alternative coverage providers.
- Service existing insurance policies by tendering losses, reviewing coverage issues, assisting in collection of losses, reporting values, issuing Certificates of Insurance as needed, processing policy changes, etc. in a timely manner.
- Schedule quarterly meetings with the Risk Manager to discuss loss control issues, exposure changes, and general administrative matters.
- Analyze the City's exposure to loss, adequacy of coverage, and develop options on coverage not presently purchased by the City.
- Provide day to day service on insurance matters.
- Assist the City in developing insurance requirements for the various contracts including design, construction, and service, and aid in reviewing insurance policies, contracts, leases, and bonds as requested by the City.
- Prepare an annual report including a schedule of policies in force, coverage provisions, premiums, insurance claims experience for the prior policy year and recommendations for possible adjustments to insurance coverage for the next policy year. The report should provide a summary of broker support services rendered during the prior year, with recommendations for broker services recommended for the subsequent year.
- Work with the City's Risk Manager to monitor the viability and cost effectiveness of the City's self-insurance program.
- Provide other services that are normally and customarily required of a municipal insurance broker.
- An annual stewardship report will be required.

**5. NON-APPROPRIATION:** All funds for payment are subject to the availability of an annual appropriation for this purpose by the City. In the event of non-appropriation of funds by the City for the services to be provided under the Agreement to be entered into pursuant to this RFP, the City will terminate the Agreement without termination charge or other liability, on the last day of the then-current fiscal year or when the appropriation made for the then-current year for the services covered by this Agreement are spent, whichever event occurs first. If at any time funds are not appropriated for the continuance of the Agreement, cancellation shall be accepted by the Bidder on thirty day's prior written notice, but failure to give such notice shall be of no effect and the City shall not be obligated under the Agreement beyond the date of termination.

**6. IRAN DIVESTMENT ACT COMPLIANCE:** By submitting this proposal, the Bidder certifies that, as of the date of submission, it is not on the Final Divestment List as created by the State Treasurer pursuant to N.C.G.S. § 143-6A-4. In compliance with the requirements of the Iran Divestment Act and N.C.G.S. § 143C-6A-5(b), Bidder shall not utilize in the performance of the contract any subcontractor that is identified on the Final Divestment List.



## QUALIFICATIONS AND SUBMISSION REQUIREMENTS

THE FOLLOWING INFORMATION SHOULD BE COMPLETED AND RETURNED. ATTACH  
ADDITIONAL PAGES AS NEEDED.

### **Business Information**

1. Name of Firm (exactly as it is to appear on the agreement):
2. Servicing Office Address:
3. Telephone Number:
4. Email Address:
5. Contact Person/Title:
6. Insurance Broker License Date:
7. Tax ID #:
8. Form of Business Entity (check one):  
Corporation ☐  
Partnership ☐  
Joint Venture ☐  
Individual ☐
9. Total Staff:
10. Total Number of Professionals:
11. Total Annual Premiums Written (\$000's) Year \_\_\_\_
12. Total Annual Premiums Written (\$000's) for Public Entity Year \_\_\_\_
13. Describe your contractual relationships, if any, with organizations necessary to your  
proposal's implementation (i.e. actuarial services, data information services).
14. What is your median client size?

### **Experience**

1. Provide the number of years engaged in the insurance business:
2. Provide the number of years engaged in the public sector insurance business:
3. Number of years individual assigned to this proposed contract engaged in the public sector  
insurance business:
4. How many clients do you have?
5. How many public sector clients do you have?
6. What is the population of your largest municipal government client?
7. Describe your firm's experience with public entities on a nation-wide basis.
8. List current local government clients and services provided including the type of coverage  
specifically, such as: Public Official Bonds, Automobile, Employment Practices Liability,  
Excess General Liability, Inland Marine, Law Enforcement Liability, Public Officials Liability,  
Umbrella Coverage, Property, Flood, Crime, Volunteer Accident, Cyber Liability and Excess  
Workers' Compensation, placed by the servicing office that will service the City's account, if  
successful (do not list clients that are not direct clients of the proposed servicing office):

9. Who will manage/service this account (provide name and title)? Please list all local governments and public entities this person (s) has directly serviced:
10. References – Please provide a list of three (3) verifiable client references of similar scope and industry for property/casualty and workers' compensation programs, all of whom are able to comment on your agency's relevant experience. This list should include at least two (2) active client references that are similar in size to the City, and one reference from a former client. Please include company name, contact name, telephone number and size of organization's workforce as well as services provided. It is the Bidder's responsibility to provide valid reference information and the City reserves the right to use reference checks in its evaluations of proposals.

### **Qualifications**

1. Confirm you are a licensed broker in North Carolina and provide documentation. Confirm that you serve as a broker, independently, and are not affiliated with any insurance company, third party administrative agency or provider network.
2. Please provide the most recent year's annual reports, or comparable document, including detailed current profit and loss, assets and liabilities, and other relevant financial data.
3. Describe the account set up you would use to service the City's account. Provide a brief resume of qualifications and experience for the personnel and their backup who will be servicing the City's account. Include professional qualifications, educational background (also indicating current and historical account responsibilities), and specific municipal government experience. If your servicing plans include the use of personnel other than the identified servicing location, describe the method or internal set-up that assures your servicing office clients are well serviced.
4. Describe your firm's servicing and technical capabilities. Provide a general background of your company as it relates to the line of coverage for which the City is seeking a proposal. Describe any special expertise your firm has in providing insurance to municipal government.
5. Describe any impending changes in your organization that could impact the delivery of broker services.
6. What is your average response time to questions posed from your clients? How do you handle follow up to outstanding items?
7. How does your firm develop your insurance/risk management professionals (i.e., do you have any in-house training program, on-the-job training, etc.)?
8. Provide your suggestions for developing a reliable, viable, working relationship with the City. What do you view as the role of each of the following parties: your organization, the City and the City's carrier(s)? Please be brief and concise.
9. What techniques will you use to assist the City in developing current risk exposure information? Can your staff conduct or arrange facility inspections? What services do you expect to be provided by the insurance carriers and how do you plan to monitor these services?

10. Describe any and all loss control services offered, such as training and consultation, not including those offered by any insurance company. In what way do you ensure that each insurance policy is properly serviced, and how you would follow-up and control the service standard on the City's account?
11. Describe in schematic form your "ideal" method of handling yearly renewals/ selection of new vendors. Please start at the data collection phase and continue through the entire process, key on the role of each party, timing of events, and the necessary coordination of the parties.
12. How will you assist with the management of insurance, including preparation of claims activity reports from carriers; executive summary reports; underwriting analysis for annual renewals; annual financial projections for budgeting purposes analysis?
13. Describe your organization's method of keeping abreast of insurance market changes including coverage, rates, business philosophy, availability, legal constraints, and solvency (security of company). Describe your firm's method of apprising clients of these changes.
14. Specify what your firm has implemented to reduce client insurance costs.
15. Provide details of seminars, presentations or webinars you have provided to your public entity clients in the last three years. Please also include your role in the presentations (instructor, organizer, etc.).
16. State any other facts and information you feel are pertinent to the selection process as they relate to your firm.
17. List any additional service options your company can provide, not already requested, and the fee associated for these services.

### **Carrier Information**

Provide the following carrier information:

1. List the three P&C and/or Workers' Compensation carriers with whom you have placed the greatest percent of your public entity business during the previous 24 months.
2. Describe your access to excess and surplus line markets.
3. Markets may be assigned by the City. Please list, in order of preference, your top four (4) market choices:

### **Broker Insurance**

1. Do you carry professional liability insurance to protect against errors and omissions?

Yes ☒ No ☐ Limits:

2. Will you provide a certificate of insurance to the City if successful in obtaining this account?

Yes ☒ No ☐

## **COST ESTIMATE**

Proposals should include an Insurance Broker Services Cost Estimate.

The City plans to thoroughly evaluate and rank the qualifications of all firms submitting proposals before considering the Cost Estimate.

The proposed cost for the first year (July 1, 2016 – June 30, 2017), is binding, while proposed costs for subsequent contracted years which follow may be estimated costs. Travel, meals and accommodation expenses must be included in each component, where applicable. The City will not directly reimburse these expenses.

## **EVALUATION AND AWARD CRITERIA**

The City will evaluate proposing firms' experience and qualifications providing self-insured public entity insurance-related services. The City will consider the top proposing firms' cost estimates, but the City is not bound to select the firm with the lowest proposed cost. The firm best meeting the City's expectations for experience, service approach and cost will be considered.

City staff will conduct the initial proposal evaluation and screening. The top ranked firms may be invited to make a presentation.

Evaluation will be based on all elements of response to proposal criteria.

It is the purpose of this RFP to obtain data as complete as possible from each respondent that will enable the City to determine which prospective firm is best able to serve all the criteria which are to be considered in the award of this contract. Evaluation of the respondents qualifying as finalists will be based on the following criteria:

- 15 points    Responsiveness: The City will consider the material submitted by the proposer to determine whether the proposer is in compliance with the RFP.
- 20 points    Responsibility: The City will consider the material submitted by the proposer and other evidence it may obtain to determine the firm's demonstrated ability to provide services for a municipality the size of Asheville with similar scope of activities. What kind of standards/procedures does your company employ regarding addressing potential Broker E & O scenarios; and how do these standards translate to providing clients with value-added services/products to enhance the overall insurance/risk management program?
- 20 points    The qualifications, experience, and familiarity with municipal risk management issues of the service team to be assigned to the City's account.
- 10 points    The accuracy of the firm's perception of the City's needs in the Casualty and Property areas and the firm's proposal(s) for meeting those needs.
- 20 points    Total cost to the City for insurance broker services.
- 10 points    Degree of local employment to be provided by the firm in the performance of the contracted broker services.
- 5 points    The availability of other support services.

Failure of the Proposer to provide in their proposal any information requested in this RFP may result in disqualification of the proposal and shall be the responsibility of the proposing firm.

The objective of the evaluation committee will be to recommend the Proposer whose proposal is most responsive to the City needs while within the available projected resources. The specifications within this RFP represent the minimum performance necessary for response.

The City reserves the right to reject any or all proposals, to negotiate with any respondent considered qualified, or to make an award without further discussion.

## EXHIBIT A

### SAMPLE CONTRACT FOR INSURANCE BROKER SERVICES

STATE OF NORTH CAROLINA  
COUNTY OF BUNCOMBE

SERVICE CONTRACT NUMBER \_\_\_\_\_

THIS SERVICES CONTRACT, made and entered into this \_\_\_\_ day of \_\_\_\_\_ 20\_\_, by and between the City of Asheville, a municipal corporation organized and existing under the laws of the State of North Carolina (hereinafter referred to as "City")), and \_\_\_\_\_ (state of incorporation or type of organization) hereinafter referred to as ("Contractor").

#### WITNESSETH:

Upon the terms and conditions hereinafter set forth, the City has requested and Contractor has agreed to furnish the City with services as set forth in this contract. The City and Contractor agree as follows:

#### A. TERMS AND CONDITIONS:

1. Contractor shall provide **services outlined in Insurance Broker Services RFP #298-Ins-Broker-Services and agreed upon Scope of Work to be included as Contract Exhibit A.**
2. The term of this contract shall be from \_\_\_\_\_.
3. The City will compensate the Contractor a maximum amount of \$\_\_\_\_\_. If the contract exceeds the aforementioned threshold, the City must amend or renew the contract in accordance with all applicable City policies.
4. Any employees furnished by Contractor, pursuant to this contract, will be employees of Contractor, an independent contractor. Contractor will maintain complete control over the employees' conduct and will disburse all payrolls, taxes, license, insurances, uniforms and all other expenses incurred by Contractor in performing the terms of this contract.
5. INSURANCE. The Contractor agrees to keep and maintain for the duration of this Agreement including but not limited to commercial general liability, professional liability, workers' compensation and employer's liability with at least the minimum limits shown below. The Contractor shall furnish the City with certificates of insurance for each type of insurance described herein, with the City listed as Certificate Holder and as an additional insured on the Contractor's general liability policy and provide a waiver of subrogation under said policy. In the event of bodily injury, property damage, or financial loss caused by Contractor's negligent acts or omissions in connection with Contractor's services performed under this Agreement, the Contractor's Liability insurance shall be primary with respect to any other insurance which may be available to the City, regardless of how the "Other Insurance" provisions may read. In the event of cancellation, substantial changes or nonrenewal, the Contractor and Contractor's insurance carrier shall give the City at least thirty (30) days prior written notice. No work shall be performed until the Bidder has furnished to the City the above referenced certificate of insurance, in a form suitable to the City.

Commercial General Liability: \$1,000,000 per occurrence  
Professional Liability: \$1,000,000 per claim-made  
Workers' Compensation: Statutory  
Employer's Liability: \$100,000 each accident/total disease/employee disease

6. Contractor shall indemnify, defend and hold harmless the City and its subsidiaries, divisions, officers, directors and employees from all liability, loss, costs, claims, damages, expenses, attorney fees, judgments and awards arising or claimed to have arisen, from any injury caused by, or allegedly caused by, either in whole or in part, any act or omission of the Contractor or any employee, agent or assign of the Contractor. This provision is not applicable to any claim arising out of or related to any active or primary negligence of or by City, its officers or employees.
7. Nothing herein shall be construed as a waiver on the part of the City to any defense of any claim, including, but not limited to the defense of governmental immunity.
8. The Contractor shall be properly licensed and skilled in his/her respective trade.
9. Contractor shall comply with all state, federal or local laws, or ordinances, codes, rules or regulations governing performance of this Agreement, including but not limited to, equal opportunity employment laws, O.S.H.A., minimum wage and hour regulation, North Carolina State Building Code regulations and immigration laws.
10. Contractor shall maintain all fiscal records relating to this Agreement in accordance with Generally Accepted Accounting Principles, and shall maintain any other records pertinent to this Agreement in a manner so as to clearly document Contractor's performance. The City shall have a right to access the fiscal and other records of Contractor that are pertinent to this Agreement to perform examinations and audits. Contractor shall retain and keep accessible all the fiscal and other records for a minimum of three (3) years following final payment and termination of this Agreement, or until the conclusion of any audit or controversy related to this Agreement, whichever is later.

- B. TERMINATION AND MODIFICATION: This contract may be terminated by either party, with thirty (30) days prior written notice. Notice shall be served under this contract by registered mail, certified mail or by other means.
- C. ENTIRE AGREEMENT: This agreement contains the entire agreement between the parties.
- D. SEVERABILITY: Should any provision or provisions contained in this agreement be declared by a court of competent jurisdiction to be void, unenforceable or illegal, such provision or provisions shall be severable and the remaining provisions hereof shall remain in full force and effect.
- E. GOVERNING LAW: This contract is entered into in North Carolina and shall be construed under the statutes and laws of North Carolina.
- F. ASSIGNABILITY: This contract is not assignable by either party without the prior written consent of the other party.

G. REQUIREMENT OF CITY CONTRACTS:

1. CONTRACTOR shall comply with the provisions of the Americans with Disabilities Act and all rules and regulations promulgated thereunder. CONTRACTOR hereby agrees to indemnify the City from and against all claims, suits, damages, costs, losses and expenses in any manner arising out of or connected with the failure of CONTRACTOR, its subcontractors, agents, successors, assigns, officers or employees to comply with the provisions of the ADA or the rules and regulations promulgated thereunder.
2. CONTRACTOR will comply with the City's Drug Free Workplace policy.
3. Minority Business Plan

The City of Asheville has adopted a Minority Business Outreach Plan to encourage participation by women and minority businesses in the public bidding process. The purpose of this outreach effort is to increase the likelihood of success in the award of contracts. Bidders are hereby notified that this bid is subject to the provisions of this Outreach Plan. Questions regarding the Minority Business Outreach Plan may be directed to, Brenda Mills, Office of Economic Development, City of Asheville, Post Office Box 7148, Asheville, NC 28802-7148 or by phone at (828) 259-8050 or by e-mail at [bmills@ashevillenc.gov](mailto:bmills@ashevillenc.gov) . You can access a listing of certified minority firms at either <https://www.ips.state.nc.us/Vendor/SearchVendor.aspx> (State of North Carolina's VendorLink search) or [www.doa.state.nc.us/hub](http://www.doa.state.nc.us/hub) (Link for Office of Historically Underutilized Businesses to search for HUB vendors directly). **All bidders are notified that they must show proof of minority or woman business status for purposes of this bidding opportunity if they do not use the Office of Historically Underutilized Businesses as their source for outreach efforts.** It is the policy of the City to (1) provide minorities an equal opportunity to participate in all aspects of its contracting and procurement programs and (2) to prohibit any and all discrimination against persons or businesses in pursuit of these opportunities.

4. Notwithstanding any other provisions of this Agreement, if the City does not receive said funding for this Agreement from the City Council for any fiscal year applicable to this Agreement, then the City shall have the right to terminate this Agreement without penalty by giving not less than thirty (30) days' written notice documenting the lack of funding.